



Date Issued: August 23, 2024
Dockets: LR24037
Type: Rental Appeal

INDEXED AS: Brian McKinnon v. Roselynn and Evans Webbo
Order No: LR24-50

BETWEEN:

Brian McKinnon (the "Tenant")

Appellant

AND:

Roselynn Webbo and Evans Webbo (the "Landlords")

Respondents

ORDER

Panel Members:

M. Douglas Clow, Acting Chair
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk
Island Regulatory and Appeals Commission

OVERVIEW OF PROCEEDINGS

1. On February 21, 2024 the Tenant filed a *Tenant Application to Determine Dispute (Form 2(A))* (the “Tenant’s Application”) with the Residential Tenancy Office (the “Rental Office”) seeking a monetary order for a return of rent in the amount of \$4,000.00. However, at the hearing, the Tenant amended the amount to \$3,000.00.
2. On April 25, 2024 the Landlords filed (and served the Tenant via e-mail) a *Landlord Application to Determine Dispute (Form 2(B))* (the “Landlords’ Application”). The Landlords’ Application sought a monetary order for \$400.00 for outstanding internet bills. Attached to the Landlords’ Application was 13-pages of additional evidence. The Tenant submitted 1-photograph as additional evidence.
3. On April 25, 2024 at 1:00 p.m. a teleconference hearing was held before the Rental Office. The Tenant and the Landlords participated. The parties confirmed receipt of all the documentary and video evidence (including the evidence package and additional evidence). The parties were prepared to proceed with hearing both the Tenant’s Application and the Landlords’ Application at the hearing.
4. On May 8, 2024, the Residential Tenancy Office issued Order LD24-149 which ordered the Tenant to pay the Landlords \$400 by May 31, 2024.
5. The Tenant appealed Order LD24-149 on May 27, 2024.
6. Since the filing of the Appeal on May 27, 2024, the Commission has had the following communications with the Tenant:
 - On May 27, 2024, an email was sent to the Tenant acknowledging receipt of the Notice of Appeal.
 - On May 30, 2024, a follow up email was sent to confirm that the Landlords had been served with the Notice of Appeal.
 - On June 3, 2024, the Commission Clerk called the Tenant to confirm receipt of the emails of May 27 and May 30, 2024.
 - On June 7, 2024, an email was sent to the Tenant enclosing the following documents:
 - Letter;
 - Notice of Appeal Hearing advising of hearing to be held June 18, 2024 at 9:00 am;
 - Exhibit List; and
 - Exhibits.
 - On June 13, 2024, an email was sent enclosing the final Exhibit List and Exhibits, and reminding the parties of the hearing scheduled for Tuesday, June 18, 2024, at 9:00 am.
 - On June 18, 2024, 8:58 am, an email was sent advising that due to unforeseen circumstances the hearing would have to be rescheduled. However, at 9:00 am

Commission Staff did open up the tele-hearing line in the event that the parties dialed in. The Landlords did dial in, but the Tenant did not dial in to the hearing. The line was left open until 9:10 am.

- After the hearing line was closed, the Commission Clerk then called and left a voice mail for the Tenant asking that the Tenant call our office.
 - On July 5, 2024, a further email was sent asking that that the Tenant get in touch to reschedule the hearing.
7. On July 12, 2024, the Commission sent a letter to the Tenant via Registered Mail outlining the history of the matter and attempts to schedule the Appeal Hearing and giving notice that if the Tenant did not contact the Commission within three days of receipt of the letter that the Commission may decide to determine the appeal has been abandoned in accordance with Rule 29 of the Commission's Rules of Practice and Procedure.
 8. The Registered Letter was delivered to and signed for by the Tenant on July 17, 2024.
 9. The Commission has not had any communication from the Tenant since that date.
 10. Rule 29 of the Commission's Rules of Practice and Procedure provides:

29. Abandonment of an Appeal or Application

1. The Commission may deem an appeal or application to have been abandoned where, upon notice to the appellant or applicant, they have failed to:

- (a) communicate with the Commission in a timely manner;
- (b) respond to Commission inquiries, requests, or direction;
- (c) file submissions or documentation with the Commission when directed to do so; or
- (d) appear at a pre-hearing conference, preliminary hearing, or a hearing.

DISPOSITION

11. The Commission gave notice to the Tenant on July 12, 2024, that the appeal may be deemed abandoned if the Tenant did not respond to our requests. The Tenant has failed to: communicate with the Commission in a timely manner and respond to Commission inquiries.
12. On the basis of the preceding overview, the Commission deems this appeal abandoned in accordance with Rule 29 of the Commission's Rules of Practice and Procedure.

IT IS ORDERED THAT

The Appeal is hereby deemed abandoned.

DATED at Charlottetown, Prince Edward Island, 23rd day of August, 2024.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Acting Chair

(sgd. Murray MacPherson)

Murray MacPherson, Commissioner

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.